

**COMMITTEE ON THE RIGHTS OF THE CHILD**  
**41<sup>st</sup> session**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 8 OF THE OPTIONAL PROTOCOL TO THE CONVENTION ON  
THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF  
CHILDREN IN ARMED CONFLICTS**

**Concluding observations: Switzerland**

1. The Committee considered the initial report of Switzerland (CRC/C/OPAC/CHE/1) at its 1082nd meeting (see CRC/C/SR.1082), held on 9 January 2006, and adopted, at its 1120th meeting, (see CRC/C/SR.1120), held on 27 January 2006, the following concluding observations:

**A. Introduction**

2. The Committee welcomes the submission of the State party's initial report, which gives detailed information on the legislative, administrative, judicial and other measures applicable in Switzerland in respect of the rights guaranteed by the Optional Protocol. It also appreciates the informative and interactive dialogue with the State party's delegation.

**B. Positive aspects**

3. The Committee notes with appreciation that the conscription of persons under the age of 18 is clearly prohibited in the Swiss federal laws and it welcomes the unanimous decision of Parliament in 2002 to raise the age for voluntary recruitment to 18 in the decree for ratification of the Optional Protocol. In addition the Committee welcomes that the State party does not allow for a lowering of the age of compulsory or voluntary recruitment in exceptional circumstances.

4. The Committee notes with appreciation that article 129 of the Criminal Code covers direct participation of persons under 18 in hostilities and that article 180 and the following articles of the Criminal Code prohibit recruiting children against their will and using them

in an armed conflict. It also notes that articles 299 and 300 of the Criminal Code are applicable to groups recruiting children in Switzerland for armed conflict abroad.

5. The Committee notes with appreciation that the State party's authorisation of foreign trade in war material follows certain criteria (*Ordonnance du 25 février 1998 sur le matériel de guerre, Etat 12 mars 2002*) and pays particular attention to the use of children as soldiers in the receiving country.

6. The Committee also commends the State party's financial support to the UN specialized agencies and numerous international organizations and non-governmental organizations working to address the issue of children in armed conflicts. Furthermore, the Committee notes with appreciation that the State party's civilian peace promotion programmes have integrated issues relating to child soldiers.

### **C. Principle areas of concern and recommendations**

#### **Implementation measures**

7. The Committee notes with regret the amendment of article 9 of the Military Penal Code of 23 December 2003, which entered into force on 1 June 2004, because it limits the State party's extraterritorial jurisdiction to the prosecution of alleged perpetrators of war crimes to persons with a close link to Switzerland. The Committee particularly regrets that the State party's laws do not establish jurisdiction for cases in which the victim has a close link to Switzerland.

**8. In the light of article 4, paragraph 2, and article 6, paragraph 1, of the Optional Protocol, the Committee recommends that the State party:**

**(a) Review the recent amendment of article 9 of the Military Penal Code with a view to restoring its full jurisdiction over war crimes, such as conscripting or enlisting children under the age of fifteen into the national armed forces or using them to participate actively in hostilities;**

**(b) Establish extraterritorial jurisdiction in cases in which the victim has a close link to Switzerland; and**

**(c) Establish national jurisdiction for the prosecution of persons who recruit children of the age of 15, 16 or 17 in Switzerland for military activities abroad.**

#### **Assistance for physical and psychological recovery**

9. The Committee notes that the State party is a country of destination of asylum-seeking and migrant children coming from war-torn countries. In the light of the fact that many of these children may have been victims of traumatic experiences, the Committee notes with concern that authorities who interview children applying for asylum receive no

special training for dealing appropriately with children affected by military activities and armed conflicts. It regrets the lack of systematic data collection on asylum seekers under the age of 18 who were involved in armed conflict. Furthermore, it is also concerned about the lack of specific integration programmes or activities for former child soldiers.

**10. The Committee recommends that the State party pay particular attention to the asylum-seeking, refugee and migrant children entering Switzerland who may have been involved in armed conflicts and provide them with immediate culturally sensitive multidisciplinary assistance for their physical and psychological recovery and their social reintegration and specific accommodation facilities designed for minors. It also recommends that the State party systematically train authorities working for and with asylum-seeking and migrant children coming from war-torn countries and collect data on refugee, asylum-seeking and migrant children within its jurisdiction who may have been involved in hostilities in their home-country. In this regard the Committee recommends that the State party take note of the Committee's General Comment No. 6 (CRC/GC/2005/6) on treatment of unaccompanied and separated children outside their country of origin.**

#### **International assistance and cooperation**

**11. Referring to the acknowledgement of the State party's financial support to the UN specialized agencies and numerous international organizations and non-governmental organizations working to address the issue of children in armed conflicts, the Committee recommends that the State party continue its bi- and multilateral activities and expand such support to cover more preventive programmes.**

#### **Training/dissemination of the Optional Protocol**

**12. The Committee recommends that the State party continue to develop ongoing and systematic education and training in all domestic languages on the provisions of the Optional Protocol for all relevant professional groups, in particular military personnel. It recommends that the State party make the Optional Protocol widely known to the public at large and in particular to children and their parents in all domestic languages, through, *inter alia*, school curricula and human rights education. In addition, the Committee recommends that the preliminary military service orientation for persons, who are liable for military service, at the age of 16, includes information on the provisions of the Optional Protocol.**

#### **Dissemination of documentation**

**13. While noting the State party's intention to make the initial report available in French, German and Italian, the Committee recommends that the initial report submitted by the State Party and concluding observations adopted by the Committee**

**be made widely available to the public at large in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.**

**Next report**

**14. In accordance with article 8, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined second and third periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 25 September 2007.**

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